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FISCAL IMPACT STATEMENT

LS 7289 | **NOTE PREPARED:** Jan 7, 2013
BILL NUMBER: SB 494 | **BILL AMENDED:**

SUBJECT: State and Local Taxation.

FIRST AUTHOR: Sen. Hershman | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: *Penalty*: This bill provides that the $50 penalty that may be imposed against a taxpayer in certain property tax appeal circumstances may not be added as an amount owed on the property tax statement.

Homestead Circuit Breaker Eligibility: The bill provides that for purposes of the property tax circuit breaker credits, a "homestead" eligible for the 1% cap means a homestead that has actually been granted a standard deduction.

Circuit Breaker Allocation: This bill makes changes regarding protecting debt service funds under the property tax circuit breaker credit and it permits a political subdivision to transfer money to meet debt service obligations from any other available source if a fund receiving protected taxes also has to be reduced.

Sales Tax: The bill removes the requirements that aircraft be registered out of the United States and be of a certain size for the sales and use tax exemption regarding tangible personal property used for the repair, maintenance, refurbishment, remodeling, or remanufacturing of an aircraft or an avionics system of an aircraft. It also restores provisions inadvertently repealed in 2012 concerning sales tax on gasoline.

County Inheritance Tax Replacement Payments: This bill specifies that counties are entitled to an inheritance tax replacement amount distribution regardless of whether the county received a distribution in state fiscal year 2012.

Certified Technology Parks: The bill provides that the designation of a new Certified Technology Park (CTP) is subject to review by the Budget Committee and approval of the State Budget Agency. It also limits the designation of new CTPs to two per state fiscal year.

Airport Authorites: This bill permits a local airport authority to annually transfer up to 5% of the authority's property tax levy for operating and maintenance to the authority's cumulative building fund.

Local Reorganization: The bill specifies that the Department of Local Government Finance (DLGF) may make various adjustments to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization.

Cumulative Funds: Upon the request of Zionsville in Boone County, this bill requires the DLGF to establish a cumulative building and equipment fund for fire protection and related services and make related levy adjustments. Upon the request of the Frankfort Airport Authority, the bill requires the DLGF to establish a cumulative building fund.

Fire Protection Levies: The bill also legalizes the actions of the DLGF with regard to levies by Barkley and Union Townships in Jasper County for township fire protection and emergency services.

Effective Date: Upon passage; January 1, 2013 (retroactive); July 1, 2013.

Explanation of State Expenditures: *Sales Tax - Exemption Related to Aircraft*: This bill may increase administrative costs of the Department of State Revenue (DOR). DOR may have to amend Sales Tax forms and computer software to incorporate the bill's provisions regarding the aircraft-related exemption. The bill's requirements are within the DOR's routine administrative function and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Sales Tax - Gasoline: The bill restores provisions inadvertently repealed in 2012 regarding Sales Tax deductions and credits offered to retail merchants for prepayments of Sales Tax on gasoline. This provision does not have a fiscal impact on the state. DOR will continue to administer Sales Tax on gasoline in the same manner as before the provisions were repealed.

County Inheritance Tax Replacement Payments: This bill changes the calculation of Inheritance Tax replacement payments to counties which would result in an increase in expenditures from the state General Fund beginning in FY 2014 and ending in FY 2024. See *Explanation of Local Revenues* for more information.

Certified Technology Parks: This bill requires the Indiana Development Economic Corporation (IEDC) to submit a proposal to the Budget Committee whenever they want to designate a new CTP. The Budget Committee will make a recommendation to the State Budget Agency, and they will make the final determination. This process is similar for the creation of other zones that may receive incremental tax revenue. The bill also limits the establishment of CTPs to 2 per fiscal year. In the first two years of the program (2003 and 2004), 14 CTPs were established. Since then, the IEDC has designated between 1 to 2 CTPs a year. These requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

[The CTP program was created to help locate businesses involved in high-technology to Indiana and facilitate job creation by these businesses. CTPs are authorized to capture incremental revenue from Sales Tax, state Income Tax, and local option income tax. Each CTP has a lifetime limit of $5 M in revenue they can capture.

As of September 2012, 23 CTPs have been designated.]

Explanation of State Revenues: *Sales Tax*: Sales Tax revenue could decrease by $1.17 M to $1.75 M in FY 2014 and by $1.22 M to $1.83 M in FY 2015. This bill expands the current Sales Tax exemption for items related to aircraft repair, maintenance, refurbishment, remodeling, or remanufacturing to include aircraft of any size that are registered in the United States. Under current statute, only items purchased for aircraft having a minimum landing weight of at least 5,000 pounds and registered outside the United States are exempt from the Sales Tax.

Sales Tax revenue is deposited as follows: 99.848% in the state General Fund, 0.123% in the Commuter Rail Service Fund (CRSF), and 0.029% in the Industrial Rail Service Fund (IRSF). The table below shows the estimated impact of this bill on each fund in FY 2014 and FY 2015.

Impact on Funds		**Lower Limit Estimate**		**Upper Limit Estimate**	
Fund	**Distribution**	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**
General Fund	99.848%	($1,168,045)	($1,215,373)	($1,752,067)	($1,823,060)
CRSF	0.123%	(1,439.00)	(1,497.00)	(2,158.00)	(2,246.00)
IRSF	0.029%	(339.00)	(353.00)	(509.00)	(529.00)
Total	**100.000%**	**($1,169,823)**	**($1,217,224)**	**($1,754,734)**	**($1,825,835)**

Total Sales Tax revenue collected from Federal Aviation Administration-registered aircraft repair locations was about $2.3 M in CY 2011. It is estimated that 44% to 65% of those purchases were items related to the repair, maintenance, refurbishment, remodeling, or remanufacturing of aircraft registered inside the United States.

Explanation of Local Expenditures: *Penalty:* Under current law, a $50 penalty is assessed against a property taxpayer who appeals an assessment or deduction if a request for continuance, a request for the PTABOA to take action without the taxpayer being present, or a withdrawal is not timely filed and the taxpayer or representative fails to appear at the hearing. Under this bill, the penalty may not be added to the tax bill. The county's cost to collect the penalty could increase under this provision.

Airport Authorities: Under the bill, local airport authorities could transfer up to 5% of operating levies to the cumulative building fund. In CY 2012, 11 airport authorities levied $11.1 M in their operating funds. At 5%, the maximum total transfer to cumulative funds would be $555,000. Five airport authorities were shown not to have an operating levy. The airport authorities and the possible transfers under this bill are shown in the following table.

2012 Airport Authority Operating Fund Levies			
County	Airport Authority	General Fund Levy	5% of GF Levy
Allen	Fort Wayne-Allen County Airport Authority	3,593,161	179,658
Cass	Logansport/Cass Co Airport Authority	432,523	21,626
Clinton	Frankfort Airport	124,900	6,245
DeKalb	DeKalb County Airport Authority	0	0
Delaware	Delaware Airport	280,371	14,019
Dubois	Dubois County Airport	94,949	4,747
Fulton	Fulton County Airport Authority	0	0
Jackson	Seymour Airport Authority	0	0
Lake	Gary Airport	1,415,091	70,755
LaPorte	LaPorte Municipal Airport Authority	0	0
Perry	Perry County Airport Authority	0	0
Porter	Porter Co Airport Authority	494,507	24,725
St. Joseph	St. Joseph Airport	2,215,966	110,798
Starke	Starke County Airport Authority	245,417	12,271
Vanderburgh	Evansville-Vanderburgh Airport Authority	937,652	46,883
Vigo	Hulman Field Airport	1,267,762	63,388
		11,102,299	**555,115**

Explanation of Local Revenues: *Homestead Circuit Breaker Eligibility - Summary*: The number of properties eligible for the 1% tax cap could be reduced under this bill. The higher property tax cap could potentially increase revenues for taxing units where the property is located. The number of properties affected is thought to be very small.

Homestead Circuit Breaker Eligibility - Background: Under current law, to qualify for the 1% property tax cap, a property must be *eligible* for the standard deduction. Under this bill, only properties that have *actually received* the standard deduction would be eligible for the 1% property tax cap. Nonhomestead residential properties have a 2% tax cap.

If an eligible taxpayer has not filed for the standard deduction, then the county auditor has no way to determine that a property is eligible for the 1% tax cap. In some cases, taxpayers have contacted the county auditor after receiving a tax bill. In those cases, the county auditor is able to apply the 1% cap retroactively and correct the tax bill. However, because these taxpayers have not received the standard and supplemental standard deductions, the tax due before the application of the cap is significantly higher than if the taxpayer had received those deductions. As a result, the revenue loss under the cap is larger.

Currently, a taxpayer who is eligible for the standard deduction may file for the deduction as late as January 5th of the year in which property taxes are due.

Circuit Breaker Allocation - Summary: Retroactive to CY 2013, this bill clarifies current law regarding the allocation of circuit breaker losses between a taxing unit's funds. Total unit revenues are not affected.

Circuit Breaker Allocation - Background: Currently, certain levies are exempt from the calculation of property tax limits under the circuit breaker law. These include levies that are approved in a referendum and levies in

Lake and St. Joseph Counties for debt incurred before July 1, 2008. Under current law, when a taxing unit distributes tax receipts among its funds, the total amount collected from exempted funds must be allocated to those funds without any adjustment for circuit breaker credits.

Beginning in CY 2013 under HEA 1072 (2012) both the exempt levies plus any debt service levies that are not exempt are deemed "protected taxes". The total amount of protected taxes collected are to be allocated to the appropriate fund without any adjustment for circuit breaker credits. The tax loss created by the circuit breaker credits is to be allocated among the unprotected funds.

Previous to HEA 1072 (2012), if the amount available in a debt service fund was insufficient to pay obligations because of circuit breaker losses, the unit was required to transfer money from its other funds to debt service. The changes in HEA 1072 (2012) were meant to eliminate the need to make the transfers.

However, an analysis of 2012 tax levies and circuit breaker losses revealed that there are 6 taxing units that either (a) had only a nonexempt debt levy with no other levies; or (b) had nondebt levies that were insufficient to absorb all of the circuit breaker loss. The statute that will take effect in 2013 is silent on how to handle these situations.

This bill clarifies that in the event that a taxing unit has no unprotected funds or if the unprotected funds are entirely reduced by circuit breaker losses, then the unit's protected funds must be reduced. In the event that protected funds are reduced, the bill permits the taxing unit to transfer money from any other fund to the protected funds to cover the loss.

Sales Tax: Local revenue could decrease due to the aircraft-related exemption to the extent that a local unit receives distributions from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

County Inheritance Tax Replacement Payments: This bill would increase the amount of replacement payments made to counties from the state General Fund beginning in FY 2014. Estimates are provided in the following table.

Fiscal Year Impact	Estimated Replacement Payments Under Current Law	Estimated Replacement Payments Provided by this Bill	Net Increase
FY 2014	$37,000	$63,000	$26,000
FY 2015	$33,000	$194,000	$161,000
FY 2016	$30,000	$326,000	$296,000
FY 2017	$26,000	$482,000	$456,000
FY 2018	$22,000	$654,000	$632,000
FY 2019	$18,000	$818,000	$800,000
FY 2020	$15,000	$949,000	$934,000
FY 2021	$11,000	$970,000	$959,000
FY 2022	$7,000	$832,000	$825,000
FY 2023	$4,000	$513,000	$509,000
FY 2024	$0	$0	$0

Background Information - This bill changes the calculation of Inheritance Tax replacement payments made to counties beginning in FY 2014 to the calculation method that was in statute prior to SEA 293-2012, multiplied by percentages that phase out the payments in FY 2024. The calculation will be based upon the difference between the Inheritance Taxes retained by a county in a state fiscal year and the average amount collected between 1990 and 1997, excluding the highest year and lowest year, multiplied by the appropriate percentage. The table below provides the schedule for the phase out of county replacement payments.

Fiscal Year Shortage	Fiscal Year Distributed	County Replacement Payment Phase Out
FY 2014	FY 2015	82%
FY 2015	FY 2016	73%
FY 2016	FY 2017	64%
FY 2017	FY 2018	55%
FY 2018	FY 2019	45%
FY 2019	FY 2020	36%
FY 2020	FY 2021	27%
FY 2021	FY 2022	18%
FY 2022	FY 2023	9%
FY 2023	FY 2024	0%

SEA 293-12 provided for a phase out of the Inheritance Tax beginning with decedents whose deaths occur during CY 2013. The Inheritance Tax will no longer apply to property interests transferred by decedents whose deaths occur after December 31, 2021. The Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early discount).

Cumulative Funds: The establishment of new cumulative funds for two taxing units and the adjustment of a maximum levy for one unit under this bill would increase tax rates within those units and could affect circuit breaker losses for intersecting taxing units.

Cumulative Funds - Zionsville: Under this provision, the DLGF would be required to establish a cumulative fire building fund for the town of Zionsville upon the town's request. For taxes payable in 2012, Zionsville's certified net assessed value was $1.861 B. The maximum tax rate for the fund would be $0.0033 per $100 of AV. The estimated levy at the maximum rate would be about $620,000. The fund could be established for taxes payable as early as CY 2014.

In addition, this bill would increase Zionsville's maximum levy for 2014 by the amount of the actual 2012 property tax levy for the fire territory's equipment replacement fund. The amount of the increase would be $446,815.

Cumulative Funds - Frankfort Airport: Under this provision, the DLGF would be required to establish a cumulative fire fund for the Frankfort Airport Authority upon the authority's request. For taxes payable in 2012, the airport authority's certified net assessed value was $295.5 M. The maximum tax rate for the fund would be $0.0033 per $100 of AV. The estimated levy at the maximum rate would be about $9,700. The fund could be established for taxes payable as early as CY 2014.

Fire Protection Levies: Under HEA 1072 (2012), Barkley Township and Union Township, both in Jasper County, could receive an increase in their firefighting maximum levies beginning in 2013 if they petitioned the DLGF. Barkley Township's increase was limited to $12,247 and Union Township's increase was limited to $14,557. Under this bill, the actions of DLGF with regard to these petitions would be legalized.

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation; Department of Local Government Finance.

Local Agencies Affected: Counties; Town of Zionsville; Frankfort Airport Authority; Barkley and Union Townships in Jasper County.

Information Sources: OFMA Inheritance Tax Database; Revenue Technical Committee, *State Revenue Forecast, Fiscal Year 2015,* December 17, 2012; Quarterly Inheritance Tax Reports, FY 1997- FY 2012. LSA, *Indiana's Geographically Targeted Development Programs: Certified Technology Parks,* September 8, 2012; Local Government Database, DLGF.

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